

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,

Plaintiff,

v.

CARMEN GONZALEZ-MONTALVO,
(05),

Defendant.

Criminal No. 97-229 (JAF)

O R D E R

The motion by Defendant Carmen González-Montalvo, Docket Document No. 833, for reconsideration of her ten-year mandatory minimum sentence for a narcotics conviction imposed in 1998 is **DENIED.**

United States v. Booker, 125 S.Ct. 738 (2005), and the cases upon which it is based, are not applicable to the case at bar. The Booker rule is not retroactive to this case. The ten-year mandatory sentence imposed upon the Defendant was based on facts stipulated and admitted by her in the plea agreement subscribed by the parties. Moreover, an examination of this record confirms that the Defendant did not properly preserve or raise any issue hinting on guideline unconstitutionality at the time of sentence or on direct review.

Defendant's motion is denied and the government's response and case law cited therein, Docket Document No. 834, is noted.

IT IS SO ORDERED.

San Juan, Puerto Rico, this 11th day of March, 2005.

S/José Antonio Fusté
JOSE ANTONIO FUSTE
Chief U. S. District Judge